

Remarks

Claims 1, 9, 14, 24, 26, 33 and 45 have been amended, and new claims 50-55 have been added. Review and reconsideration in view of the amendments and remarks below are respectfully requested.

Claims 1-7, 9, 13, 15, 16, 20, 23, 24, 26-30 and 32-49 are rejected as allegedly being anticipated by U.S. Pat. No. 6,415,262 to Walker et al. By way of background, the Walker reference is directed to a "subscription" service in which the store may extend a limited offer to a customer to buy a product at a discounted rate (see, for example, column 2, lines 36-55). The subscription program may require that the customer meet certain conditions (such as minimum frequency of purchase) in order for the customer to remain in the subscription program (column 3, lines 52-55 and column 8, lines 21-26). While in the subscription program, the customer can buy goods at a discounted rate (see Fig. 6, which compares "retail price" to "subscription price"). The customer may be charged in order to join the subscription program (column 2, lines 54-55), and a penalty may be imposed on the customer if the customer does not purchase the minimum requirements (column 10, lines 25-37). At the end of the subscription period, the customer may be offered the option of renewing the subscription (column 18, lines 42-45).

In contrast, the present application discloses a reward system in which customers select any number of the product categories. The customers' purchases in the selected product categories are tracked. The program may be run for a discrete period of time, after which the program ends and purchases in each selected category may be totaled. A reward or rebate based upon the purchases and selected category may be calculated, and provided to the customer at the end of the program or program cycle. Thus the accumulated, single reward disclosed in this application clearly differs from the subscription system of Walker in which a discounted price is applied to each applicable purchase.

The last claimed step of claim 1 includes the step of providing a *single* reward to the customer based at least in part upon the customer's *cumulative purchases* in the selected product categories *over a discrete period of time*. In contrast, the Walker reference primarily discloses a system in which a discount, or reduced price, is immediately applied to the purchase at hand (see step 1520 in Fig. 15A). Thus, it can be seen that at least the last step of claim 1 distinguishes over the Walker reference.

Claim 1 has also been amended to clarify that reward is based at least in part upon the monetary amount of the customer's purchases in the selected product categories over a discrete period of time. Support for this amendment can be found, for example, at page 6, lines 1-16, page 7, line 30 – page 8, line 5 and page 8, lines 11-15. In contrast, in the primary embodiment of Walker the reward is contingent upon a customer making the minimum frequency of purchases (column 2, lines 49-53).

Claim 1 has also been amended to specify that the tracking step takes place over a plurality of transactions in which the reward is accumulated but is not provided to the customer. Support for this amendment can be found, for example, at page 8, lines 6-10, page 9, lines 5-14 and original claim 21. In contrast, in the system of Walker, a reward is provided immediately to the applicable purchase, and is not accumulated (column 12, lines 30-34).

Finally, claim 1 has also been amended to specify that the reward varies (based at least in part upon the monetary amount of the customer's cumulative purchases). In contrast, in the system of Walker, the discount applied to each purchase remains constant for that subscription (column 12, lines 39-49).

Accordingly, since Walker fails to disclose at least: 1) providing a single reward to the customer based at least in part upon the customer's cumulative purchases in the selected product categories over a discrete period of time; 2) providing a single reward based at least in part upon the monetary amount of a customer's cumulative purchases; 3) a system which takes place over a plurality of transactions in which the reward is accumulated but is not provided to the customer; and 4) a variable reward based at least in part upon the monetary amount of the customer's cumulative purchases, claim 1 distinguishes over the Walker reference.

In comparing the last step of claim 1 to the Walker reference, the Office action cites to various passages of Walker, including: 1) the Abstract; 2) column 18, lines 60-64; and 3) column 19, lines 28-46. However, none of these passages disclose the subject matter of the last step of claim 1. In particular, the Abstract does not in any way disclose or suggest providing a single reward to the customer based at least in part upon the monetary amount of the customer's cumulative purchases in the selected product categories over a discrete period of time. The Abstract does mention that in order to be entitled to receive the subscription price the customer may be required to make a required frequency of purchases for a required period of time.

However, this does not disclose the concept of providing a single reward to the customer based at least in part upon the customer's cumulative purchases in the selected product categories over a discrete period of time. This passage also does not disclose providing a single reward based at least in part upon the monetary amount of a customer's cumulative purchases, a system which takes place over a plurality of transactions in which the reward is accumulated but is not provided to the customer, or providing a variable reward based at least in part upon the monetary amount of the customer's cumulative purchases.

The cited passage at column 18, lines 60-64 merely indicates that conditions for a renewal of a subscription may vary. This passage, too, does not relate to the concepts noted above.

Finally, the cited passage at column 19, lines 28-46 primarily refers to the return of a customer's deposit, or providing payment to a customer, upon acceptance of an offer to enter into a renewal subscription. However, this payment of Walker is provided at the *acceptance* of an offer to *renew* a subscription. Thus this payment is provided at the *beginning*, and not the end, of the program. Moreover, this payment is not disclosed to be based on monetary amount of any of the customer's purchases, as specified in claim 1, and is not a single reward or a variable reward as those terms are specified in claim 1. Accordingly, this passage also does not disclose the subject matter of the last phrase of amended claim 1.

In sum, the Walker reference is directed to a program in which discounts are applied instantaneously; that is, during that same transaction. Walker does not appear to disclose any accumulated, delayed or deferred rewards based upon the monetary amount of a customer's cumulative purchases. In the Walker system the reward is provided instantaneously, and does not vary depending upon customer purchases. Thus the subject matter of amended claim 1 is not shown.

New claim 50 depends from claim 1 and specifies that the reward has a monetary value that is directly based part upon the monetary amount of the customer's purchases in the selected product categories over a discrete period of time.

New claim 51 depends from claim 1 and specifies that each discrete transaction constitutes a separate visit to the store or chain. Claim 51 also specifies that the reward is automatically provided to the customer at the end of an iteration of the reward program without

requiring any further action by the customer. Support for claim 51 can be found, for example, at page 8, lines 6-15, page 9, lines 12-17 and page 12, lines 27-29. In contrast, should the Office take the position that the monetary amount paid to the customer at the commencement of a renewed subscription plan of Walker (column 19, lines 61- column 20, line 37) corresponds to the claimed reward, it is noted that that "reward" of Walker is only provided when the customer affirmatively renews his or her subscription, and therefore requires action by the customer.

New claim 52 specifies that no reward is provided to the customer over the plurality of transactions in which the reward is accumulated. Support for this amendment can be found at, for example, page 8, lines 6-9, page 7, lines 15-20, page 9 lines 12-14, and page 12, lines 4-11. In contrast, if it is argued that a reduced price in the Walker system constitute a "reward," it is noted that such a reward is not accumulated but is instead applied for each appropriate transaction. Claim 52 also specifies that the reward provides an immediate and tangible financial benefit to the customer.

New claim 53 specifies that the value of the reward increases as a customer's cumulative purchases in the selected product categories increases. Support for this claim can be found at, for example, page 8, lines 12-15. In contrast, in the Walker system the "reward" constitutes a fixed discount.

In addition, several other dependent claims also further distinguish from the Walker on the same or similar grounds. For example, claim 38 specifies that the reward to the customer is based upon a plurality of transactions. In contrast, Walker discloses a system in which the reward is provided instantaneously based upon the current transaction.

Claim 42 specifies that each discrete transaction constitutes a separate visit to the store or chain. In rejecting claim 42, the Office action cites to column 20, lines 16-36, noting that a purchaser may subscribe to one gallon of milk per week, which involves separate visits to the store. However, while it is true that Walker discloses the bare concept of multiple visits to a store, Walker does not disclose that those separate visits provide cumulative purchases that result in a *single reward* to the customer *based upon a plurality of discrete purchases*. In contrast, when a customer in the Walker system makes a visit to the store to buy milk, they get a discount *at that time for that purchase*. In fact, in the system described at column 20, lines 16-36, the

customer *pre-pays* for the full value of the subscription at the time of purchase. Thus the cited passage does not support the rejection of claim 42.

Claim 5 specifies that the reward is based solely upon purchases by the customer in the selected categories. Claim 1 (from which claim 5 depends) specifies that the reward is based upon cumulative purchases. In contrast, as noted above, the Walker reference does not disclose a reward based upon the monetary amount of cumulative purchases, let alone a reward based *solely* upon the monetary amount of cumulative purchases.

The remaining independent claims (claims 24, 26, 33 and 45) each include at least one limitation that is the same as, or analogous to, one of the limitations described above which is missing from the Walker reference. Accordingly, it is submitted that the application is in a condition for allowance, a formal notice of thereof is respectfully solicited.

The Commissioner is hereby authorized to charge any additional fees required, including the fee for an extension of time, or to credit any overpayment to Deposit Account 20-0809. The applicant(s) hereby authorizes the Commissioner under 37 C.F.R. §1.136(a)(3) to treat any paper that is filed in this Application which requires an extension of time as incorporating a request for such an extension.

Respectfully submitted,

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